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Jack Schwartz & Associates, 1350 Broadway, Suite 1510 New York, NY 10018-7702			PARSLEY, DAVID J	
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DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/779,872

Applicant(s)

HULIN, MICHAEL J.

Examiner

David J. Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-70 is/are pending in the application.
- 4a) Of the above claim(s) 53-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **Detailed Action**

### ***Election/Restrictions***

1. Applicant's election of claims 1-52 in the reply filed on 8-10-05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 53-70 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 8-10-05.

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

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The abstract of the disclosure is objected to because the phrase "and the like" in line 3 should be deleted and in line 6 "is" should be - -it- -. Correction is required. See MPEP § 608.01(b).

### *Drawings*

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spiral platform with cylindrical chute in claim 30 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

4. Claim 1 recites the limitations "the crated product" and "the crate" in lines 5 and 6. There is insufficient antecedent basis for these limitations in the claim.

Claim 3 recites the limitation "said boiler system" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 is objected to because of the following informalities: it does not end in a period. Appropriate correction is required.

Claim 4 recites the limitation "said dryer" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the edge of said conk tank" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim.

Claim 8 recites the limitation "the open top portion of the crate" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the primary mixing tank" in lines 11-12. There is insufficient antecedent basis for this limitation in the claim.

Claim 12 recites the limitations "the means for transferring the shellfish product form said conk tank", "said boiler system", "said dumping cage", "the opposing sidewall" "said conk

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tank housing”, “said primary seafood boiler” and “the end of said conk tank conveyor” in lines 2-3 and 5-8. There is insufficient antecedent basis for these limitations in the claim.

Claim 18 recites the limitations “the drop area”, “the conk tank conveyor” and “the opposing sidewall” in lines 5-6. There is insufficient antecedent basis for these limitations in the claim.

Claim 24 recites the limitation “broth systems” in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 31 recites the limitation “the conveyors” in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 34 recites the limitations “said spiral dryer” and “said peeler” in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claim 52 is objected to because of the following informalities: in line 1 the term “a” should be capitalized. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 30, 35 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 30 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to how the spiral platform achieves orbital motion.

Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "optional" in items (f) thru (j) makes it unclear to whether these components are to be considered part of the claimed invention.

Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "may include" in line 4 makes it unclear to whether the components of items (a) thru (y) are to be considered part of the claimed invention.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7-9 and 50-52 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 3,594,860 to Nelson et al.

Referring to claims 1 and 50-52, Nelson et al. discloses an apparatus processing shellfish comprising, a fluid filled conk tank – at 50, for separating shellfish product from packing ice, sea shells and other such large objects and an automated means – at 14-28, for transporting the

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crated product to the conk tank – see for example figure 1, dumping the shellfish product into the conk tank from the crate and removing the crate – at 24, therefrom – see for example figures 1-2.

Referring to claim 7, Nelson et al. discloses an automated means of packaging shells and dust – see at 66-72 in figure 1.

Referring to claim 8, Nelson et al. discloses a conk tank conveyor system – at 14-20, having a first loading end – see proximate 38,40 in figure 1, and a second dumping end – see proximate 54,60 or proximate 66-72 in figure 1, the dumping end extending above and beyond the edge of the conk tank – at 50 – see for example figure 1, a dumping cage – at 28,30, 24, disposed proximal to the dumping end of the conveyor system – see figure 1, positioned in a manner conducive to catching the crate – at 24, after it falls off the dumping end so the open top portion of the crate is oriented towards the conk tank – see figure 1, thereby emptying the contents of the crate therein – see figure 1, the dumping cage being substantially open so as not to restrict passage therethrough of the shellfish product – see for example figure 1 and a mechanical means – at 14,22, for ejecting the crate from the dumping cage – see for example figure 1.

Referring to claim 9, Nelson et al. discloses the conk tank comprises a watertight housing – at 50, having sidewalls and an open top – see for example figure 1, a substantial quantity of water retained within the housing – see at 52 in figure 1, and means – at 62,64, for agitating the water and lighter objects within the conk tank – see for example figure 1.

***Claim Rejections - 35 USC § 103***



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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as applied to claim 1 above, and further in view of U.S. Patent No. 4,862,794 to Lapeyre et al.

Referring to claim 2, Nelson et al. does not disclose a boiler system for supplying heated brine and cooking the shellfish product therein and an automated means for transferring the shellfish product from the conk tank to the boiler system. Lapeyre et al. does disclose a boiler system – at 12, and an automated means – at 22, for transferring the shellfish product from the conk tank to the boiler system – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. and add the boiler of Lapeyre et al., so as to allow for the shellfish to be properly cooked during processing.

Referring to claim 12, Nelson et al. further discloses an inclined conveyor – at 14, having a first lower end located at a bottom portion of the conk tank – see for example figure 1, and a second upper end extending above and beyond the opposing sidewall of the conk tank housing – see for example figure 1. Nelson et al. does not disclose the means for transferring the shellfish product from the conk tank to the boiler system is a substantially inclined conk tank conveyor with a lower end positioned below the dumping cage and an upper end extending above and beyond the opposing sidewall of the conk tank housing so as to extend over the primary seafood boiler thereby permitting the shellfish product to fall therein upon reaching the end of the conk tank conveyor. Lapeyre et al. does disclose the means for transferring the shellfish product from

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the conk tank to the boiler system is a substantially inclined conk tank conveyor – at 22, with a lower end positioned below the dumping cage – at 24-30, and an upper end extending above and beyond the opposing sidewall of the conk tank housing – at 10, so as to extend over the primary seafood boiler – at 12, thereby permitting the shellfish product to fall therein upon reaching the end of the conk tank conveyor – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. and add the boiler of Lapeyre et al., so as to allow for the shellfish to be properly cooked during processing.

Claims 3-4, 24-27, 31, 33-34 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as applied to claim 1 above, and further in view of U.S. Patent No. 6,372,275 to Hulin.

Referring to claim 3, Nelson et al. does not disclose at least one dryer for dehydrating shellfish product and an automated means for transferring the shellfish product from the boiler system to the dryer. Hulin does disclose at least one dryer – at 32-36, for dehydrating shellfish product and an automated means for transferring the shellfish product from the boiler system to the dryer – see for example column 7 lines 31-49. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. and add the dryer of Hulin, so as to allow for the shellfish to be prepared for peeling/removing of the shell.

Referring to claim 4, Nelson et al. does not disclose at least one peeling device for removing the heads, shells and tails from the shellfish product and an automated means for transferring the dried shellfish product from the dryer into the peeling device and for removing it therefrom. Hulin does disclose at least one peeling device – at 22, for removing the heads, shells and tails from the shellfish product and an automated means for transferring the dried shellfish

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product from the dryer into the peeling device and for removing it therefrom – see for example figures 4-6. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. and add the peeling device of Hulin, so as to allow for the device to remove any non-edible portions of the shellfish for consumption.

Referring to claim 24, Nelson et al. as modified by Hulin further discloses a means for supplying heat to the dryers by capturing the heat generated by the boiling and broth systems and transferring it thereto – see for example figures 4-6 and column 8 lines 35-67 and column 9 lines 1-35 of Hulin.

Referring to claim 25, Nelson et al. as modified by Hulin further discloses the dryer heat supply means includes a manifold integral with the boiler system and in communication with the dryers to scavenge the heat from the heat generating boiler and transfer it thereto – see for example figures 4-6 and column 8 lines 35-67 and column 9 lines 1-35 of Hulin.

Referring to claim 26, Nelson et al. as modified by Hulin further discloses the dryer heat supply further includes an air return system to return air to the boiler system from the dryers using fans or blowers to maintain constant air flow and recirculation – see for example figures 4-6 of Hulin.

Referring to claim 27, Nelson et al. as modified by Hulin further discloses the dryer includes a means for moving and rotating the shellfish product within the dryers during the drying process – see for example figures 1-6 and column 8 lines 10-67 and column 9 lines 1-35 of Hulin.

Referring to claim 31, Nelson et al. as modified by Hulin further discloses vacuum bars running along the bottom portion of the dryer to vacuum accumulated shells and shellfish

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product that may have fallen off the conveyors – see for example figures 1-6, column 8 lines 35-67 and column 9 lines 1-35 of Hulin.

Referring to claim 33, Nelson et al. as modified by Hulin further discloses a product transfer system which utilizes suction to vacuum the shellfish product from one device to another – see for example at 20 of Hulin.

Referring to claim 34, Nelson et al. as modified by Hulin further discloses the product transfer system is utilized to move the shellfish product from the dryer to the peeler – see for example figure 1 of Hulin.

Referring to claims 46 and 48, Nelson et al. as modified by Hulin does not disclose a video monitoring means in the dryers. However, it would have been obvious to one of ordinary skill in the art to take the device Nelson et al. as modified by Hulin and add the video monitoring means in the dryer, so as to allow for the dryer to be monitored for better maintenance of the dryer.

Referring to claim 47, Nelson et al. as modified by Hulin does not disclose the dryers include rheostat. However, it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and add the rheostat, so as to allow for the operation of the device to be controlled.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as applied to claim 1 above, and further in view of U.S. Patent No. 4,769,870 to Hansen et al.

Referring to claim 5, Nelson et al. does not disclose an automated means of separating shells and debris from finished product. Hansen et al. does disclose automated means of separating shells and debris from finished product – see for example at 16 in figure 2. Therefore

it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. and add the separating means of Hansen et al., so as to allow for the shellfish product to be made edible for consumption.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as applied to claim 1 above, and further in view of U.S. Patent No. 5,246,118 to Mosher.

Referring to claim 6, Nelson et al. does not disclose an automated means of grading the product by size. Mosher does disclose an automated means of grading the product by size – see for example at 52-80 in figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. and add the size grading means of Mosher, so as to allow for the shellfish product to be sorted for further processing and packaging depending upon the size of the shellfish product.

Claims 10 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Lapeyre et al. as applied to claim 2 above, and further in view of U.S. Patent No. 4,916,775 to Gallant.

Referring to claim 10, Nelson et al. as modified by Lapeyre et al. further discloses a primary seafood boiler – at 12, to maintain the boiler at a constant temperature – see for example figure 1 of Lapeyre et al. Nelson et al. as modified by Lapeyre et al. does not disclose a brine mixing tank including a means for introducing water therein and a means for introducing salt therein to create a brine solution of a predetermined concentration in which the shellfish product is to be cooked and a conduit communicating between the brine mixing tank and the primary seafood boiler for the selective transport of brine to the primary mixing tank. Gallant does disclose a brine mixing tank – at 29, including a means for introducing water therein and a means

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for introducing salt therein – at 30, to create a brine solution of a predetermined concentration in which the shellfish product is to be cooked and a conduit communicating between the brine mixing tank and the primary seafood boiler for the selective transport of brine to the primary mixing tank – see for example proximate 29 and 30 in figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Lapeyre et al. and add the brine mixing tank of Lapeyre et al., so as to allow for the shellfish to be prepared for removing the shell.

Regarding claim 13, Nelson et al. as modified by Lapeyre et al. and Gallant further discloses a means for agitating the brine and contents therein – see for example at 30 or 31 in figure 1 of Gallant.

Regarding claim 14, Nelson et al. as modified by Lapeyre et al. and Gallant further discloses the agitation means includes at least one paddle wheel type element – at 31, at the surface of the brine to keep the shellfish product moving evenly therethrough – see for example figure 1 of Gallant.

Referring to claim 15, Nelson et al. as modified by Lapeyre et al. and Gallant further discloses the agitation means includes at least one jet nozzle for circulating the brine and product within the boiler – see for example at 30 and proximate 30 in figure 1 of Gallant.

Referring to claim 16, Nelson et al. as modified by Lapeyre et al. and Gallant further discloses the primary seafood boiler – at 12, further includes means for selectively maintaining and monitoring a specific temperature of the brine therein – see for example column 4 lines 43-68 and column 5 lines 1-65 of Lapeyre et al.

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Referring to claim 17, Nelson et al. as modified by Lapeyre et al. and Gallant further discloses a salinity monitoring system that assures an adequate brine mix – see at 29-31 and column 2 lines 61-68 of Gallant.

Claims 18-20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin as applied to claim 3 above, and further in view of Lapeyre et al.

Referring to claim 18, Nelson et al. as modified by Hulin further discloses a conveyor between the boiler and the dryer – see for example figures 4-6 and column 7 lines 31-49 of Hulin. Nelson et al. as modified by Hulin does not disclose a seafood dryer conveyor having a first lower end disposed at a bottom portion of the primary seafood boiler beneath the drop area of the conk tank conveyor and a second end extending over and beyond the opposing sidewall where it assumes substantially horizontal orientation and terminates upon introduction to the dryer. Lapeyre et al. does disclose a conveyor – at 22, having a first lower end disposed at a bottom portion of the primary seafood boiler beneath the drop area of the conk tank conveyor and a second end extending over and beyond the opposing sidewall where it assumes substantially horizontal orientation and terminates upon introduction to the next processing station – see for example at 22 in figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and add the conveyor of Lapeyre et al., so as to allow for the shellfish to be moved quickly from one processing station to the next.

Referring to claim 19, Nelson et al. as modified by Hulin and Lapeyre et al. further discloses a plurality of fans – at 32, blowing over the conveyor – see for example column 8 lines 13-20 of Hulin.

Referring to claim 20, Nelson et al. as modified by Hulin and Lapeyre et al. further discloses a conveyor having a plurality of spreader bars – at 24-30, traversing the width of the conveyor disposed slightly thereabove at a height sufficient to permit individual pieces of shellfish to pass thereunder but will prevent passage of stacked shellfish until it is residing on the conveyor rather on top of another shellfish thereby assuring the shellfish product is evenly spread thereon for more efficient cooling – see for example figures 1-4 of Lapeyre et al.

Referring to claim 22, Nelson et al. as modified by Hulin and Lapeyre et al. further discloses the conveyor is enclosed to prevent exposure to airborne contaminants – see for example at 12 in figure 1 of Lapeyre et al.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin and Lapeyre et al. as applied to claim 18 above, and further in view of U.S. Patent No. 4,829,636 to Caroon. Nelson et al. as modified by Hulin and Lapeyre et al. does not disclose the conveyor includes a plurality of rakes for turning the shellfish product to further ensure the uniform cooling thereof. Caroon does disclose a conveyor including a plurality of rakes – see proximate 36 and 40 and column 3 lines 30-42, for turning the shellfish product to further ensure the uniform cooling thereof – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and Lapeyre et al. and add the conveyor of Caroon, so as to allow for the position of the shellfish on the conveyor to be controlled.



Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin and Lapeyre et al. as applied to claim 18 above, and further in view of Gallant. Nelson et al. as modified by Hulin and Lapeyre et al. does not disclose a transport portion of the conveyor is composed of mesh-like belting to permit passage of air therethrough. Gallant does disclose a transport portion of the conveyor is composed of mesh-like belting to permit passage of air therethrough – see at 23 and 25. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and Lapeyre et al. and add the conveyor with mesh belting of Gallant, so as to allow for materials to pass through the conveyor.

Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin as applied to claim 27 above, and further in view of U.S. Patent No. 4,966,072 to Ellis-Brown.

Referring to claims 28-29, Nelson et al. as modified by Hulin does not disclose the rotating means is a vertically stacked conveyor system having a plurality of staggered parallel conveyors spaced apart one above the other and moving in alternating directions. Ellis-Brown does disclose the rotating means is a vertically stacked conveyor system – at 71-74 and 81-88, having a plurality of staggered parallel conveyors spaced apart one above the other and moving in alternating directions – see for example figure 3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and add the vertically stacked conveyor system of Ellis-Brown, so as to allow for the movement of the shellfish in the device to be controlled.

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Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin as applied to claim 3 above, and further in view of U.S. Patent No. 5,651,731 to Gorans et al. Nelson et al. as modified by Hulin does not disclose moisture sensors to ensure complete dehydration with no pathogen traces. Gorans et al. does disclose a moisture sensor – at 54, to ensure complete dehydration with no pathogen traces – see for example column 3 lines 9-18. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and add the moisture sensor of Gorans et al., so as to allow for the moisture level in the animal to be detected.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin as applied to claim 4 above, and further in view of U.S. Patent No. 4,532,677 to Wenstrom et al. Nelson et al. as modified by Hulin further discloses separation of debris and shells from finished product by vacuum extraction and loading by-product into packages or drums and working in sequence with the dryer and product transfer system to grade product by size – see for example figures 1-6 of Hulin. Nelson et al. as modified by Hulin does not disclose the peeling device comprises an inner compartment having a screened bottom, an outer compartment and a blade member that spins within the inner compartment. Wenstrom et al. does disclose the peeling device comprises an inner compartment having a screened bottom – at 62, an outer compartment – see figure 4, and a blade member – at 58, that spins within the inner compartment – see for example figure 4. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and add the peeling device of Wenstrom et al., so as to allow for the shell of the animal to be totally removed during processing.

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Claims 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Lapeyre et al. as applied to claim 2 above, and further in view of U.S. Patent No. 4,660,468 to Goldahn.

Referring to claim 36, Nelson et al. as modified by Lapeyre et al. do not disclose a broth processing system wherein used brine is extracted from the primary seafood boiler and transported to the broth processing system for preparation into a seafood flavored broth. Goldahn does disclose a broth processing system wherein used food material is extracted from the primary boiler – at 110, and transported to the broth processing system – at 111-130, for preparation into a seafood flavored broth – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Lapeyre et al. and add the broth processing system of Goldahn, so as to allow for the device to use the byproducts of the device to make an edible product.

Referring to claim 37, Nelson et al. as modified by Lapeyre et al. and Goldahn further discloses broth storage tanks – see proximate 132 in figure 1 of Goldahn, for storage of the finished broth product – see for example figure 1 of Goldahn.

Referring to claim 38, Nelson et al. as modified by Lapeyre et al. and Goldahn further discloses a broth packaging system to package the broth for the market – see for example proximate 132 in figure 1 of Goldahn.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Lapeyre et al. as applied to claim 2 above, and further in view of U.S. Patent No. 3,665,555 to Willis. Nelson et al. as modified by Lapeyre et al. does not disclose a spray system wherein brine is injected into a mist. Willis does disclose a spray system where brine is injected

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into a mist – see for example column 7 lines 23-33. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Lapeyre et al. and add the brine spray device of Willis, so as to allow for the device to produce an edible product.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin as applied to claim 3 above, and further in view of U.S. Patent No. 4,829,636 to Caroon. Nelson et al. as modified by Hulin does not disclose the conveyor includes a plurality of rakes for turning the shellfish product to further ensure the uniform cooling thereof. Caroon does disclose a conveyor including a plurality of rakes – see proximate 36 and 40 and column 3 lines 30-42, for turning the shellfish product to further ensure the uniform cooling thereof – see for example figures 1-3. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and add the conveyor of Caroon, so as to allow for the position of the shellfish on the conveyor to be controlled.

Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin and Caroon as applied to claim 40 above, and further in view of U.S. Patent No. 5,651,731 to Gorans et al.

Referring to claim 41, Nelson et al. as modified by Hulin does not disclose moisture sensors to activate the conveyor rakes. Gorans et al. does disclose a moisture sensor – at 54, to – see for example column 3 lines 9-18. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and add the moisture sensor of Gorans et al., so as to allow for the moisture level in the animal to be detected.

Referring to claim 42, Nelson et al. as modified by Hulin, Caroon and Gorans et al. further discloses a temperature control means – see for example column 4 lines 52-67 of Gorans et al.

Referring to claim 43, Nelson et al. as modified by Hulin, Caroon and Gorans et al. further discloses thermostats and regulators – see for example column 4 lines 52-67 and column 5 lines 1-25 of Gorans et al.

Claims 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson et al. as modified by Hulin as applied to claim 3 above, and further in view of U.S. Patent No. 6,117,003 to Brinson.

Referring to claim 44, Nelson et al. as modified by Hulin does not disclose contaminate sensors for detecting potential contaminants and toxins. Brinson does disclose contaminate sensors for detecting potential contaminants and toxins – see for example column 3 lines 10-33. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Nelson et al. as modified by Hulin and add the contaminate sensor of Brinson, so as to allow for unwanted material to be detected in the device.

Referring to claim 45, Nelson et al. as modified by Hulin and Brinson further discloses an alarm and notification means in communication with the air contaminate sensors to notify the operator of a potentially hazardous condition – see for example column 3 lines 10-33 of Brinson.

*Allowable Subject Matter*

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8. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 30 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to shrimp processing/cooking devices/methods in general:

U.S. Pat. No. 2,047,688 to Jenkins – shows shellfish processing device

U.S. Pat. No. 3,722,035 to Hanks – shows shellfish processing device

U.S. Pat. No. 3,988,805 to Martin – shows shellfish processing device

U.S. Pat. No. 4,330,904 to Lambert – shows shellfish processing device

U.S. Pat. No. 5,059,151 to Kiczek – shows shellfish processing device

U.S. Pat. No. 5,928,072 to Fulcher et al. – shows shellfish processing device


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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890.

The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
David Parsley  
Patent Examiner  
Art Unit 3643

  
**PETER M. POON**  
**SUPERVISORY PATENT EXAMINER**

12/26/05